

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LYN ALLEN and
CINCINNATUS, LLC,

Plaintiffs,

Case No. 20-CV-11020

vs.

HON. GEORGE CARAM STEEH

GRETCHEN WHITMER, in
her personal capacity,

Defendant.

_____ /

ORDER DENYING DEFENDANT'S
MOTION TO DISMISS AS MOOT [ECF No. 11]

This matter is before the court on defendant Governor Gretchen Whitmer's motion to dismiss under Fed R. Civ. P. 12(b)(1) and 12(b)(6) which was filed on June 24, 2020 [ECF No. 11]. Plaintiffs Lyn Allen and Cincinnatus, LLC filed an amended complaint on July 14, 2020 [ECF No. 16].

Federal Rule of Civil Procedure 15(a)(1)(B) provides that plaintiffs may amend their complaint as a matter of course and without leave of court within twenty-one days after service of a motion under Rule 12(b). Given that plaintiffs filed their amended complaint within twenty-one days after

defendant's filing, the amended complaint supersedes the previous complaint and controls the case. *Calhoun v. Bergh*, 769 F.3d 409, 410 (6th Cir. 2014). Therefore, the court denies defendant's motion to dismiss as moot.

So ordered.

Dated: July 17, 2020

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on July 17, 2020, by electronic and/or ordinary mail.

s/Brianna Sauve
Deputy Clerk